

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:08-CT-3129-BO

MALCOLM WRIGHT,
Plaintiff,

v.

BOYD BENNETT, et al.,
Defendants.

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ORDER

FILED

AUG 25 2010

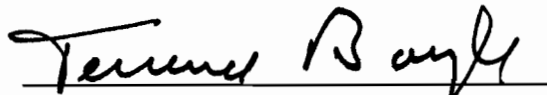
DENNIS P. JAVARONE, CLERK
US DISTRICT COURT, EDNC
BY  DEP CLK

Plaintiff filed a civil rights action pursuant to 42 U.S.C. § 1983. On August 4, 2010, the defendants' motion for summary judgment was granted. Plaintiff is now before the court with a motion for reconsideration. (D.E. # 48)

The court considers the motion to be one to alter or amend the judgment pursuant to Federal Rules of Civil Procedure 59. See Dove v. Codesco, 569 F.2d 807, 809 (4th Cir. 1978). Rule 59(e) permits a court to alter or amend a judgment. See Fed. R. Civ. P. 59(e). The decision whether to amend or alter a judgment pursuant to Rule 59(e) is within the sound discretion of the district court. See Hughes v. Bedsole, 48 F.3d 1376, 1382 (4th Cir. 1995). Courts have recognized three reasons for granting a motion to alter or amend a judgment under Rule 59(e): (1) to accommodate an intervening change in controlling law; (2) to account for the availability of new evidence not previously available; or (3) to correct clear error of law or prevent manifest injustice. See, e.g., Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Consequently, “[a] Rule 59(e) motion is not intended to allow for re-argument of the very issues that the court has previously decided,” DeLong v. Thompson, 790 F. Supp. 594, 618 (E.D. Va. 1991), aff’d, 985 F.2d 553 (4th Cir. 1993), and is not “intended to give an unhappy litigant one additional

chance to sway the judge.” Durkin v. Taylor, 444 F. Supp. 879, 889 (E.D. Va. 1977). Therefore, to successfully persuade this court to alter or amend its judgment, Wright must demonstrate a recent change in the law, newly discovered evidence, or a clear error by this court merits such a change. However, Wright’s motion fails to satisfy any of the requirements. The motion (D.E. # 48) is DENIED.

SO ORDERED, this the 22 day of August 2010.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE